CARRIERS—TELEGRAPH—LIMITATION OF LIABILITY ACCORDING TO FILED TARIFF RATES WHERE SENDER DID NOT ASSENT TO OR KNOW OF SUCH LIMITATION.—The respondent had sent a cablegram, the message being unrepeated, and as a result of appellant's negligent error in transmission suffered a loss of $31,000. The appellant had filed tariff rates with the Interstate Commerce Commission limiting their liability for an error in an unrepeated message to the portion of the tolls which it received for the transmission of the message. The appellee did not use a blank containing this stipulation, and neither assented to nor knew of the limited liability. *Held* that appellee was bound by the stipulation. *Western Union Telegraph Co.* v. *Esteve Bros. & Co.* (U. S., 1921), 41 Sup. Ct. 584.

Even after the act of 1910 placed telegraph and telephone companies under the jurisdiction of the Interstate Commerce Commission, the state courts refused to uphold stipulations limiting liability for negligence, in the absence of a supreme court decision on the matter. 18 MICH. L. REV. 248. The principal case is the first supreme court decision to affirm directly and positively the validity of such stipulations for limited liability, although there have been previous intimations that this stand would be taken in accordance with the decisions involving other carriers. 18 MICH. L. REV. 418. It has been held that a message sent between two points in the same state and passing through a third state is an interstate message. *Klippel* v. *Western Union Telegraph Co.*, 106 Kan. 6; 18 MICH. L. REV. 559. It is held that the limitation of liability is binding upon the addressee as well as the sender. *Klotz* v. *Western Union Telegraph Co.*, 187 Iowa 1355. The federal court held that in the case of an intrastate telegram it was not bound by the decisions in the state courts of Ohio, and in the absence of a statute in the state prohibiting such stipulations, the limitation of liability for unrepeated messages was binding. *Friedlander* v. *Postal-Telegraph Cable Co.*, 271 Fed. 954. It is held, however, that stipulations limiting recovery to the cost of an unrepeated message do not excuse the carrier from liability for full damages, when the damages resulted from a total failure to transmit the message, as distinguished from an error in the course of transmission. *Czizek* v. *Western Union Telegraph Co.* (1921), 272 Fed. 223. The principal case also applies to telegraph companies the holding in *Boston & Me. R. Co.* v. *Hooker*, 233 U. S. 97, i. e. that the stipulation limiting liability is binding regardless of the absence of assent or notice, because of the desirability of upholding uniform rates which are presumed to be reasonable from their having been filed with the Interstate Commerce Commission. But in the principal case the court points out that telegraph companies are not required to file their rates. Accordingly a later case, upon the authority of *Western Union Telegraph Co.* v. *Esteve Bros. & Co.*, *supra*, goes still further, holding that the stipulation is valid and binding even though the rates were not filed with the commission, and as in the principal case that assent to the stipulation was not necessary, the message being phoned to the telegraph company, and the sender having no knowledge of any limitation of liability. *Grand Rapids Showcase Co.* v. *Postal-Telegraph Cable Co.*

(Mich. 1921), 183 N. W. 731. The force of filed rates is seen by the holding that the consignee was liable to pay the full amount of freight according to the filed rates, although it had previously paid all the charges asked by the carrier. *N. Y. Central & Hudson River R. Co.* v. *York & Whitney Co.*, 41 Sup. Ct. 509, and also by the holding that the carrier could recover freight from the consignor, when it had agreed to recover it from third parties who could not meet the full claim. *Chicago & E. R. Co.* v. *Lightfoot et al.* (Mo. 1921), 232 S. W. 176. The principal case is in accord with the previous views of the supreme court as to the right of other carriers to limit their liability, and to enforce their stipulations regardless of assent or dissent, although it is subject to what appear to be the reasonbale and sound objections of Justice Pitney in his dissent to *Boston & Maine R. Co.* v. *Hooker, supra.*

CHILD—MEANING OF IN STATUTE ALLOWING ACTION FOR DEATH.—A statute gave to the wife, husband, parent or child of the deceased a right of action for death by wrongful act. Another statute allowed illegitimate children and their issue to inherit from their mother and from each other. Plaintiff was the mother of an illegitimate child killed through the negligence of defendant. *Held,* plaintiff had no cause of action. *State for use of Smith* v. *Hagerstown & F. Ry. Co.,* (Md., 1921) 114 Atl. 729.

In another very recent case, *Panama Ry. Co.* v. *Castilla,* 272 Fed. 656, the court held that as there was no statute in the Canal Zone making a bastard child legitimate as to its mother, she could not recover for her child's death by wrongful act of defendant. Undoubtedly the majority of decided cases in point in this country and England are in accord with the instant case, but it is submitted that they are based upon an unwise policy and an unfortunate following of bad precedent. For authorities and more extended discussion, see 19 MICH. L. REV. 562.

CONSTITUTIONAL LAW—FEDERAL TAX LAW EFFECTING REGULATION OF CHILD LABOR UNCONSTITUTIONAL.—Plaintiff sought an injunction to restrain collection of a tax levied pursuant to the Act of Feb. 24, 1919, § 1200 (Comp. St. Ann. Supp. 1919, 6336 7/8a), which imposed a 10 per cent. excise tax on net profits of certain employers of child labor. Tax law *held* unconstitutional as an attempt on the part of Congress, not to collect revenue, but to control the internal affairs of a state. Injunction granted. *George* v. *Bailey* (1921, W. D. N. C.), 274 Fed. 639.

The court, in the principal case, considered itself bound by *Hammer* v. *Dagenhart,* 247 U. S. 251, where the Supreme Court, in a 5 to 4 decision, declared the Owen Keating Act unconstitutional. Purporting to exercise its authority under the commerce clause of the Constitution, Congress had provided, in that Act, that the products of child labor should not be shipped in interstate or foreign commerce. Though ostensibly an exercise of power to regulate commerce, the Act was held to be an unlawful attempt by Congress to enact a police measure regulating child labor within the states.